



Adults with Incapacity (Scotland) Act 2000

2000 asp 4

[^{F1}PART 3

ACCOUNTS AND FUNDS

Joint and reserve withdrawers

[^{F1}26C **Joint withdrawers: supplementary**

- (1) Joint withdrawers may, subject to subsection (2), exercise their functions individually, and each joint withdrawer is liable for any loss incurred by the adult arising out of—
 - (a) the joint withdrawer's own acts or omissions; or
 - (b) the joint withdrawer's failure to take reasonable steps to ensure that another joint withdrawer does not breach any duty of care or fiduciary duty owed to the adult.
- (2) Where more than one joint withdrawer is liable under subsection (1), they are liable jointly and severally.
- (3) A joint withdrawer must, before exercising any function conferred on the joint withdrawer, consult the other joint withdrawers, unless—
 - (a) consultation would be impracticable in the circumstances; or
 - (b) the joint withdrawers agree that consultation is not necessary.
- (4) Where joint withdrawers disagree as to the exercise of their functions, one or more of them may apply to the Public Guardian for directions.
- (5) Directions given by the Public Guardian in pursuance of subsection (4) may be appealed to the sheriff, whose decision is final.
- (6) Where there are joint withdrawers—
 - (a) a third party in good faith is entitled to rely on the authority to act of any one or more of them; and

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 26C. (See end of Document for details)

- (b) section 31A(5) (interim authority) only applies where the Public Guardian terminates the authority of all of the joint withdrawers.]

Textual Amendments

- F1** Pt. 3 substituted (1.4.2008) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 58**, [79\(3\)](#); [S.S.I. 2008/49](#), [art. 2\(1\)](#) (with [arts. 34](#))

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